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Fresno, California

April 14, 2011

The City Council met in regular session at the hour of 8:45 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Oliver Baines III	Councilmember
	Andreas Borgeas	Councilmember
	Clinton Olivier	Acting Council President
	Sal Quintero	Councilmember
	Blong Xiong	Councilmember
	Lee Brand	Council President

Absent:	Larry Westerlund	Councilmember (Out of town/military duty – present via conference call for Item 9:00 a.m. “A”)
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Mark Scott, City Manager
Bruce Rudd, Assistant City Manager
Jim Sanchez, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

****Due to power outage the following portions of the meeting were not recorded:**

Robert Hayes of Friends Community Church gave the invocation and President Brand led the Pledge of Allegiance.

PROCLAMATION OF “CRIME VICTIM’S RIGHTS WEEK” – COUNCILMEMBER WESTERLUND

Read and presented by President Brand in the absence of Councilmember Westerlund.

PROCAMATION OF “NATIONAL ARCHITECTURE WEEK” – COUNCILMEMBER XIONG

Read and presented.

PRESENTATION BY THE GAP OF A \$25,000.00 CHECK TO “FRESNO UNITED NEIGHBORHOODS” (FUN) TO SUPPORT THE PARCS ‘BEST’ PROGRAM (BUILDING EVERYONE’S SKILLS FOR TOMORROW) TO SUPPORT UNDERSERVED YOUTH – COUNCILMEMBER BAINES AND PARCS DEPARTMENT

**** Recording starts here:** Presentation made.

RESOLUTION OF COMMENDATION FOR THE FLEET MANAGEMENT DIVISION FOR EARNING THE AUTOMOTIVE SERVICE EXCELLENCE (ASE) BLUE SEAL OF EXCELLENCE RECOGNITION FOR THE 11TH CONSECUTIVE YEAR

Read and presented.

ADD-ON: PROCLAMATION OF “SAM MARZILIANO DAY” – ACTING PRESIDENT OLIVIER

Read and presented.

APPROVE COUNCIL MINUTES OF APRIL 7, 2011

On motion of Councilmember Xiong, seconded by President Brand, duly carried, RESOLVED, the minutes of April 7, 2011, approved a submitted.

APPROVE COFCAP MINUTES OF APRIL 7, 2011

Laid over one week.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Quintero (1) thanked Fresno Leadership Class 27 for their fundraising and the improvements made to the community garden at Al Radka Park last Saturday; (2) spoke to opening day of the Sunnyside Lone Star Little League last Sunday; and (3) congratulated the Boys and Girls Club on their Youth of the Year Awards Banquet and Fabian Leyva for being named Youth of the Year.

Councilmember Xiong (1) thanked Fremont Elementary School for inviting him to read to their first grade classes; (2) congratulated Hands On Central California for their TV Volunteer-a-Thon and the community for volunteering; (3) advised he spoke yesterday at the State Refugee Summit in Sacramento and thanked the Department of Social Service for holding the event, and added this month was American Refugee Month and recognized refugees and those who transitioned into Americans and are now helping others to do so; and (4) invited all to attend the Lao and the Cambodian New Year celebrations this Saturday.

Acting President Olivier thanked (1) staff, students from Roosevelt and Fresno State, and the office of Assemblyman Henry T. Perea for participating in the neighborhood clean event along Belmont last Saturday in conjunction with the Graffiti Abatement Team and Solid Waste; and (2) ACM Rudd for attending and participating in his district meeting last Tuesday at Burroughs School.

Councilmember Baines (1) thanked PAL for their outreach to youth and their program that provided free airplane rides to middle school students at Sierra Sky Park; (2) thanked PARCS crews involved in the clean-up of Neilsen Park, and noted last Saturday was opening day of Edison Babe Ruth Little League at the park which looked great and added he was able to throw the first pitch; (3) advised he attended an event at The Golden Restaurant along with Councilmember Xiong in which they christened lions in front of the restaurant and stated it was a wonderful cultural experience; and (4) advised he attended the Ying Merchant Association Chinese New Year celebration on Tuesday stating it was a great event.

President Brand (1) stated he was privileged to stand with City Manager Scott yesterday to honor employees for 10 to 40 years of city service, added in 1971 Mr. Scott was an intern at the RDA and in 1972 he was an intern at Transit, and thanked employees for their contributions and going through this stressful time with the economy; and (2) advised this year council district boundaries would be redrawn due to the 2010 census and the process would involve the City Manager, City Attorney, City Clerk and the Council.

APPROVE AGENDA:

(1-J) APPROVE THE APPOINTMENT OF GARY MASON TO THE MOBILE HOME RENT REVIEW AND STABILIZATION COMMISSION – MAYOR SWEARENGIN

Removed from the agenda.

(9:00 A.M. “B”) RESOLUTION – AUTHORIZING SUBMISSION OF AN APPLICATION TO THE CALIFORNIA DEPARTMENT OF WATER RESOURCES TO OBTAIN STORMWATER FLOOD MANAGEMENT GRANT PROGRAM FUNDING IN THE AMOUNT OF \$4.3 MILLION FOR THE FANCHER CREEK FLOOD CONTROL IMPROVEMENT PROJECT, AND AUTHORIZE EXECUTION OF APPLICATION DOCUMENTS ON BEHALF OF THE CITY

Councilmember Quintero stated he wanted this matter laid over to the next council meeting due to his inability to meet with staff, the amount of money involved, and his need to get some clarification on the monies. ACM Rudd advised the application was due tomorrow, Councilmember Quintero stated no one contacted his office at all until yesterday, and upon his question City Engineer Mozier responded there would be another round of applications next year and along with City Manager Scott explained how staff was contacted very late on this matter by area developers and the FMFCD who did all the leg work in putting the application together. Councilmember Quintero stated another big concern was area residents having to pay thousands in additional homeowners insurance due to the flood plain area and it was unclear if some of this money could cover some of those costs. Mr. Scott stated representatives from Fancher Creek and the FMFCD were present and could answer questions and upon President Brand's suggestion the item was moved to 1:30 p.m. to allow Councilmember Quintero to speak with staff/involved parties in the interim.

On motion of Councilmember Baines, seconded by President Brand, duly carried, RESOLVED, the **AGENDA** hereby approved, as amended, by the following vote:

Ayes : Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes : None
Absent : Westerlund

ADOPT CONSENT CALENDAR:

Barbara Hunt stated Council needed to take a more proactive approach in addressing items and “do their homework”.

Councilmember Borgeas registered a “no” vote on **Item 1-H** based on his belief that the item should not have been on the Consent Calendar.

President Brand pulled **Item 1-G** from the Consent Calendar for separate discussion/action.

(1-A) APPROVE THE FOURTH AMENDMENT TO THE AGREEMENT WITH DESIGN LAB 252 IN THE AMOUNT OF \$5,300 FOR ADDITIONAL SERVICES FO THE EATON PLAZA PARK PROJECT, INCLUDING PREPARATION OF ADDITIONAL DESIGN DOCUMENTS NECESSARY FOR SECURING THE CONDITIONAL USE PERMIT (CUP), AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE AMENDMENT

(1-B) AUTHORIZE SUBMISSION OF THE ANNUAL TRANSPORTATION FUNDING CLAIM FOR FRESNO’S LOCAL TRANSPORTATION FUND (LTF) AND STATE TRANSIT ASSISTANCE (STA) ENTITLEMENT IN THE AMOUNT OF \$17,777,272, PLUS ANY ADDITIONAL FUNDS MADE AVAILABLE DURING FY 2011, AND AUTHORIZE THE DIRECTOR OF TRANSPORTATION TO EXECUTE ALL CLAIM DOCUMENTS ON BEHALF OF THE CITY

(1-C) ADOPT FINDINGS OF A CEQA CATEGORICAL EXEMPTION (EXISTING FACILITIES, MINOR LAND DIVISION, AND IN-FILL DEVELOPMENT) FOR THE WIDENING OF THE SOUTH SIDE OF E. ASHLAN AVENUE WEST OF COLLEGE AVENUE

#1 APPROVE A PARTIAL ACQUISITION IN THE AMOUNT OF \$8,850 OF ONE PARCEL FROM PROPERTY OWNED BY JOHN M. AND COLLEEN G. VIDINOFF THAT IS NECESSARY FOR THE WIDENING OF THE SOUTH SIDE OF E. ASHLAN WEST OF COLLEGE AVENUE, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION

(1-D) ADOPT FINDINGS OF A CEQA CATEGORICAL EXEMPTION (EXISTING FACILITIES, MINOR LAND DIVISIONS, AND IN-FILL DEVELOPMENT) FOR THE WIDENING OF THE SOUTH SIDE OF E. ASHLAN AVENUE WEST OF COLLEGE AVENUE

#1 APPROVE A PARTIAL ACQUISITION IN THE AMOUNT OF \$7,150 OF ONE PARCEL FROM PROPERTY OWNED BY BEN G. SHERFY THAT IS NECESSARY FOR THE WIDENING OF E. ASHLAN AVENUE WEST OF COLLEGE, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION

(1-E) AUTHORIZE THE DARM DIRECTOR TO NEGOTIATE AND ENTER INTO A CONSULTING SERVICES CONTRACT WITH STRATEGIC ENERGY INNOVATIONS OF SAN RAFAEL, CA, IN AN AMOUNT NOT TO EXCEED \$174,000, FOR PROGRAM IMPLEMENTATION SERVICES FOR THE FRESNO REGIONAL COMPREHENSIVE RESIDENTIAL RETROFIT (FRCRR) PROGRAM

(1-F) APPROVE THE APPOINTMENT OF DIANE L. SMITH TO THE DOWNTOWN NEIGHBORHOODS COMMUNITY ADVISORY COMMITTEE – COUNCILMEMBER BAINES

(1-I) APPROVE CONTRACT CHANGE ORDER NO. 9 FOR THE FRESNO CITY HALL CHILLER REPLACEMENT PROJECT PROVIDING FOR A CONTRACT TIME EXTENSION OF NINETY-ONE (91) WORKING DAYS

On motion of Councilmember Baines, seconded by President Brand, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes : None
Absent : Westerlund

(1-H) RESOLUTION NO. 2011-65 – 71ST AMENDMENT TO AAR 2010-138 APPROPRIATING \$1 MILLION TO THE CITY’S RISK FUND FOR SETTLEMENT/PAYMENT OF FRESNO AREA EXPRESS (FAX) RELATED CLAIMS

On motion of Councilmember Baines, seconded by President Brand, duly carried, RESOLVED, the above entitled Resolution No. 2010-65 hereby adopted, by the following vote:

Ayes : Baines, Olivier, Quintero, Xiong, Brand
Noes : Borgeas
Absent : Westerlund

(9:00 A.M. “A”) APPROVE AN EXCLUSIVE NEGOTIATION AGREEMENT (ENA) WITH BIG LEAGUE DREAMS CONSULTING, LLC FOR A LEASE AGREEMENT PERTAINING TO OPERATION OF THE GRANITE PARK AND SOUTHWEST REGIONAL SPORTS COMPLEX FACILITIES

****NOTE- Councilmember Westerlund was present via teleconference call from the hotel lobby of The Residence Inn in Tinton Fall, New Jersey.**

ACM Rudd reviewed the issue and recommended approval, all as contained in the staff report as submitted.

Barbara Hunt, 2475 S. Walnut, spoke in opposition.

Councilmember Westerlund stated he appreciated the work staff has done and the commitment shown by Big League Dreams (BLD) in continuing to look at this; noted last October a proposal was brought forth in a much different form and added he was glad it did not move forward at that time because what staff was presenting this date was quite a bit different, bigger and better and explained; spoke to the need to make Granite Park something of value stating it has just continued to deteriorate and attract taggers and vandals and added past options were explored but all arrows continued to point back to BLD as a known and prudent operator; and spoke to BLD’s experience and expertise to upgrade and operate the ballparks **(2 – 0)**, urged Council’s support to take maintenance and the day-to-day operation of the facilities off the City’s books, and made a motion to approve the ENA.

Councilmember Xiong spoke to the issue of process, to staff’s discussions with other parties who did not have the capacity to do this, to the three council members that will serve on a committee and be involved in the negotiations, and to the preliminary proposal/numbers the three council members have seen and questioned why the rest of the council had not been presented with those numbers/information. Mr. Rudd stated the numbers had not been distributed because (1) they were proprietary and information BLD uses when they develop their business model, and (2) they were preliminary based on assumptions made on their other operating models and what they believe the market is, stated until negotiations occur numbers should not be looked at, and added the reason for the ENA was to allow the City to go in and review/fine-tune the numbers on operating and potential capital investments to make sure that they, along with an agreement, are solid enough to bring back to Council. Councilmember Xiong continued presenting questions, comments and concerns at length relative to why staff was coming to Council if BLD had the capacity to do this, concern with Council being asked to approve an ENA without some members having the same type of knowledge/information that other members had, if staff could negotiate without an ENA, concern with Council being asked to make an assumption without having all the information, concern with Council being told this is the “best way to go”, importance of process and desire to have all the information to make an analysis, concern with the lack of Council input on selection of the committee, why the RFP process was by-passed, and clarification that questions/concerns were about procedure and not BLD’s capacity/qualifications.

Councilmember Borgeas stated he understood the purposes of an ENA and it was made clear an ENA was not needed for staff to engage in discussions with BLD, and presented questions/comments/concerns relative to what transpired since the last time this issue was addressed, if any negotiations occurred, there being a political undercurrent here to give some degree of satisfaction to BLD based on what transpired the last time, the suggested options of BLD purchasing Granite Park or putting Granite Park on the market not being followed up on, there being no need for an ENA as no one else was “chomping at the bit”, the ENA being a political vehicle/feeling that something more was occurring/Council being asked to “step out on a ledge”, why the property was not put out on the market to gauge its viability, if staff had a recent appraisal, and exclusivity not being necessary in this instance and belief that BLD will not walk away from discussions if they are not granted an exclusive.

Upon the request of Councilmember Baines, BLD local partner Terance Frazier came forth and stated he felt BLD would walk away because they have been here over two years trying to make this deal work, responded briefly to other comments made, and expanded at length on who BLD was/why they were created, what their interest was in managing Granite Park and the Regional Sports Complex, the importance of allowing BLD to come to the table and negotiate, how the city of Fresno and the community would benefit with BLD's management of the ballparks, how out-of-town BLD coming in and investing \$2 - \$3 million into the city's parks was unprecedented, and the need and importance of Council supporting a 45-day ENA. Councilmember Baines concurred with Councilmember Borgeas that this was a very nuanced, unique situation and added Granite Park was a unique situation for the city and BLD and their baseball model was extremely unique; stated over the last couple of years multiple people/companies came forth but did not have the capacity for this project; stated putting Granite Park on the market was a little farfetched and premature because this deal would only work because the southwest sports complex was included; stated the uniqueness of this situation warranted the opportunity for an ENA and Council would have the opportunity to weigh-in; stressed BLD was a nationwide phenomena right now and there was no other company doing what they do; stated he was a little confused with the opposition to just discussing a deal in a subcommittee fashion and added there was no political motivations or maliciousness in the committee selection as it was a logical decision; stated he personally has been in discussions with the CEO of BLD and confirmed this was something they desired to do and no one else had the ability to do what they do; and stated the request to have an opportunity to negotiate was a fair point and he hoped Council would give BLD that opportunity adding if not the city would probably lose that ability as there was some frustration on their part because they have been around for two years.

Extensive Council discussion continued. Upon question of Acting President Olivier Mr. Frazier stated if Council were to not approve the ENA it would show Fresno was not interested in BLD and right then and there BLD would walk away, and advised Mr. Rudd received a letter before this from BLD stating how they were done and added at the request of staff he went and talked to BLD about making this happen and giving Fresno another chance. Councilmember Xiong reiterated this was about process and not about denying BLD from coming to the table, clarified he personally wanted to see this happen but questioned if anything was learned from what happened and what was discussed the last time, and elaborated further on process **(3 – 0)** and how “exclusivity” to him meant BLD was favored over others. Councilmember Quintero thanked Mr. Frazier for his work, passion and determination in trying to make things work and added more exclusives should be given to him, spoke to the importance of baseball to boys and girls in uniform and stated he could see the championship game being played at Granite Park, and stated providing these types of amenities for the community was important, Mr. Frazier was the city's godsend to make this work, and again thanked Mr. Frazier for his determination and stated he looked forward to opening day. Councilmember Borgeas stated occasionally in city issues one's passion for a project becomes the focus and any of the procedural discussions are lost in the process, and upon his question Mr. Frazier stated it was his belief that BLD would walk away without approval of an ENA based on what he has seen but added he was not the owner of BLD. Councilmember Borgeas stated exclusivity was a minor issue, the most important thing was to figure out what to do with Granite Park and if BLD would be a viable partner, Council needed to ask the hard questions and certain questions had not been answered, options presented previously should have been addressed and checked off the list but that was not done and explained, and presented questions and comments relative to what the difference/protection was between an ENA and a non-exclusive arrangement, why BLD had not put forth a proposal if they have been here two years, and how Granite Park should have been put on the market months ago, with City Attorney Sanchez, Mr. Frazier and Mr. Rudd responding. City Manager Scott stated council members each give a direction and then the memory is that *“Council gave direction”*; stated the meeting today was not so much about whether staff brought something wrong to the Council but was about whether Council wanted to try to figure out how to work with each other; stated if Council cannot give staff “even an inkling of a clear direction” on where to go then this will happen repeatedly and added it has happened repeatedly as during the whole year he has been here this meeting is done over and over again on one issue or another and it was tiring; and stated he was trying to find a way to get items through Council without Council pointing at and telling staff they are not bringing back what they want. Councilmember Borgeas spoke briefly to the form of government, to the need to discuss and vet out issues and learn from past mistakes, to how creating a Council consensus should not be the only goal, and to how this second hearing and discussion on this matter was based on the shortcomings when it was presented the first time. Councilmember Westerlund expressed his appreciation to Mr. Scott for stepping in, agreed there was no Council direction the last time to put the property on the market although desires and ideas were thrown out, stated a procedural issue was being confused with a substantive issue and strongly questioned if Council wanted something to happen with Granite Park or not, stated when council members want to kill a project they run to procedure and expressed concern with why this was being politicized this much, and elaborated further stressing if Council wants Granite Park to continue to be an albatross around the city's neck they should vote “no” and not try to nitpick the procedure but he hoped they would find it in their heart to do something for the children.

President Brand commented stating if there were other viable vendors he would have supported an RFP, noted the redevelopment agency approves ENAs all the time, spoke to his analysis of this business model stating it provided for substantial investment by BLD, zero from the City, and the potential to upgrade two ballparks to derive revenues, and stated negotiations would occur and everything would be verified and if successful it was his intent to bring the matter back in closed session to discuss key points and get Council's input as was done with the stadium lease.

On motion of Councilmember Westerlund, seconded by Councilmember Baines, duly carried, RESOLVED, an Exclusive Negotiation Agreement (ENA) between the City of Fresno and Big League Dreams, LLC hereby approved, by the following vote:

Ayes : Baines, Quintero, Westerlund, Brand
Noes : Borgeas, Olivier, Xiong
Absent : None

Councilmember Westerlund stated he had to get back to work, thanked everyone, and ended the call at 11:04 a.m..

(10:00 A.M.) PRESENTATION REGARDING DARLING INTERNATIONAL'S CURRENT OPERATIONS AT 795 W. BELGRAVIA AVENUE IN SOUTHWEST FRESNO – COUNCILMEMBER BAINES

#1 APPEARANCE BY CONCERNED CITIZENS OF WEST FRESNO

#2 APPEARANCE BY DARLING INTERNATIONAL

City Attorney Sanchez stated this matter involved an extensive history that Council was well aware of, advised negotiations were currently underway for an abatement agreement and a closed session was scheduled for later to review the legal options associated with the site, and advised Council to receive public testimony and then discuss options in closed session. President Brand also advised Council to be cautious with their comments stating this was an opportunity for the public to be heard and Council would discuss it later in more detail in closed session.

The following speakers all expressed concerns relative to the Darling rendering plant operation, health/air quality issues and impacts, the plant operating as a non-conforming/illegal use, and the need for Darling to get a Conditional Use Permit (CUP) and comply: Mary Curry; Lewis Wiley, Sr., 5788 N. Feland; Sarah Scharp, Environmental Health Program Director, Fresno Metro Ministry, who also submitted a map entitled "Pollution Sites Relative to Percent of People of Color (by Census Block Group)"; Paul Binion, 1424 W. California **(4 – 0)**; Pastor B.T. Lewis, Rising Star Missionary Baptist Church, 1104 Collins; Eddie (last name inaudible), business/property owner next to Darling; Attorney Kara Brodfuehrer, California Rural Legal Assistance, representing the Concerns Citizens of Fresno, who also submitted extensive written information into the record; Bob Mitchell, Concerned Citizens of Fresno; Benny, a 13-year old 8th grader at Dubois School; Francine Farber, 707 W. Fairmont, President of the League of Women Voters, who also submitted written material; Phyllis Brown, Edison High School teacher, who read excerpts from some letters written by students; Linda Fisher, Edison High School teacher, who also had a stack of letters from students; Bobby Logan; Pastor Leonard Adams; Cal Johnson; Sandra Celadon, Clinica Sierra Vista on behalf of Deputy Chief of Programs Kevin Hamilton; Barbara Hunt; Patience Milrod, 844 N. Van Ness, who stated an abatement agreement was not the functional equivalent of a CUP and explained; Pastor Alicia Vasquez; Jeff Ashley on behalf of the Tehipite Chapter of the Sierra Club and the Sierra Club of California, support for the coalition; and Roger Brown.

President Brand thanked everyone for their testimony and there was no further discussion.

LUNCH RECESS – 12:03 P.M. – 1:37 P.M. Councilmember Quintero arrived shortly into the meeting.

(1-G) APPROVE A TWO-YEAR LICENSE AGREEMENT WITH PEAK BROADCASTING FOR USE OF THE ROTARY AMPHITHEATER AT WOODWARD PARK FOR TEN (10) EVENTS EACH YEAR

President Brand stated this agreement was for concerts and requested all rules be followed as complaints have been received on sound levels and types of music played.

On motion of President Brand, seconded by Councilmember Baines, duly carried, RESOLVED, a two-year license agreement with Peak Broadcasting for ten event days at the Rotary Amphitheater in both calendar year 2011 and 2012 hereby approved, by the following vote:

Ayes : Baines, Borgeas, Olivier, Xiong, Brand
Noes : None
Absent : Quintero, Westerlund

Councilmember Quintero arrived at 1:38 p.m.

(9:00 A.M. “B”) RESOLUTION NO. 2011-66 – AUTHORIZING SUBMISSION OF AN APPLICATION TO THE CALIFORNIA DEPARTMENT OF WATER RESOURCES TO OBTAIN STORMWATER FLOOD MANAGEMENT GRANT PROGRAM FUNDING IN THE AMOUNT OF \$4.3 MILLION FOR THE FANCHER CREEK FLOOD CONTROL IMPROVEMENT PROJECT, AND AUTHORIZE EXECUTION OF APPLICATION DOCUMENTS ON BEHALF OF THE CITY

Jerry Lakeman with the Fresno Metropolitan Flood Control District and City Engineer Mozier responded to comments and questions of Councilmember Quintero relative to the flood plain area, cost for homeowner insurance, how this project will affect the constituents surrounding the Fancher Creek area in terms of their insurance premium, if the flood plain designation will be removed **(5 – 0)**, if the City will be administering the grant, if project work will be subcontracted out, if there were any long term costs associated with maintenance of the project, if the City will be involved in everything associated with administration of the grant including meetings and oversight, and request that his office be kept in the loop.

Sal Gonzales, representing Fancher Creek Properties, thanked Council and staff.

On motion of Councilmember Quintero, seconded by Councilmember Baines, duly carried, RESOLVED, the above entitled Resolution No. 2011-66 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes	:	None
Absent	:	Westerlund

(9:15 A.M. “A”) WORKSHOP ON RECENT LAYOFFS – COUNCILMEMBER XIONG

Councilmember Xiong stated he scheduled this to get more clarity on service impacts to constituents, and upon his request City Manager Scott explained (1) why the cuts had to be made before the end of this fiscal year and were not included in FY 2012 discussions and (2) that cuts were made in different positions in all departments and a drop-off in efficiencies/level of analysis/number of inspections/learning curve problems would be seen. Councilmember Xiong presented questions and comments at length relative to whether this latest cut filled the budget gap/balanced this fiscal year’s budget, perception that the layoffs occurred because solid waste privatization was not approved, FY11 and FY12 gaps, if some of FY11 gap will be carried over to next year, if departments had a good sense of impacts or if actual impacts will not be known until they occur, the city attorney’s analysis on information provided to Council, city attorney office impacts and meaning, request that an updated memo on city attorney service impacts be provided to Council, blue collar service impacts, front line/public safety cuts/impacts, DPU cuts, general fund impact/workloads, how cuts are evaluated/if consideration is given to revenue-generated functions versus non-revenue generation, if the immediate savings justify the upcoming uncertainties, and the bumping process, with Mr. Scott, City Attorney Sanchez, Local 39 representative Marina Magdaleno, and Business Tax employee Andi Walls responding throughout. Councilmember Xiong thanked staff and Council and upon his question Mr. Scott stated answers on impacts and positions should be clearer when Council gets their proposal for next year’s budget. President Brand also thanked everyone and there was no further discussion.

(8:30 A.M. SPECIAL NOTICE ITEM) DIRECT CITY MANAGER AND CITY ATTORNEY TO ENTER INTO A CONSULTANT AGREEMENT WITH THE CITY’S EXTERNAL AUDITING FIRM, MGO, TO CLARIFY THE FINANCIAL POSITION OF THE CITY’S EMERGENCY RESERVE FUND FROM INCEPTION TO NOVEMBER 2010 – COUNCILMEMBER XIONG

(6 – 0) Councilmember Xiong spoke to discussions held last year on the emergency reserve and stated the intent here was to make clear going into next year’s budget whether the value of that reserve was cash or not; agreed there was a negative deficit and a budget deficit that were larger than the emergency reserve and clarified that was not what he was talking about; and upon his question Controller Gray stated there was cash value in the reserve but that cash was spoken for several times over, with Councilmember Xiong stating the “cash being spoken for” was a discussion the Council body needed to have. City Attorney Sanchez stated the question was asked as to whether the positive fund balance would equate to cash and the answer was ‘yes’ but that it had also been spoken for in a number of other accounts as Council’s action last November moved those funds elsewhere.

City Manager Scott clarified under accounting terminology it has been listed as cash but that did not mean there was any real cash associated with it because payments were made out of the treasury pool and those payments could not be attributed anywhere within accounting records (CAFR) that would be appropriate to attribute them to and further explained; stated there was a serious problem here as the city had a \$26 million negative that it did not have anything to offset it against and the cash had not been charged to an appropriate fund and further explained; stated in terms of having a study done stated he would love for Council to find some way to get comfortable with what he has told Council because he was uncomfortable that this was still being talked about so many months later; and requested Council do whatever it needed to do to get comfortable but he did not think the city auditor was the right firm to conduct a study as they were the ones presenting the records that staff has not gotten clear about for whatever reason. Councilmember Xiong responded to comments made, stated the controller said there was cash value and he felt Council should have an in-depth policy discussion with the city manager on the best use of the funds, and upon his questions Budget Director Smith and Mr. Sanchez stated (1) specifically in accounting terms she agreed with the Controller that the reserve had a cash value, (2) Councilmember Xiong could place an item on the agenda for Council discussion on the issue re-appropriating the funds that were transferred (after approval last November) back into the general fund emergency reserve which would take five votes, and (3) there was no third party commitment or reliance for that transfer. Councilmember Xiong stated in his talks with MGO they indicated a study would take about 15 hours of work within two weeks at a cost of \$2,500 - \$3,000, and stated from his perspective the Controller and Budget Director answered his question about the reserve issue and there was a larger picture and discussion for that reserve.

President Brand noted the deficit has been going on for a number of years and spoke to it being \$36 million a year ago, to the \$10 million reserve in FY10 and Council's action last fall to apply that \$10 million towards the deficit, and to the need for the city as stewards of taxpayer dollars to operate professionally and with above the board accounting standards; stated he looked at the CAFR and was convinced that there was no reserve; stated one of the motivating reasons for his Reserve Management Act was to define clearly in the future exactly what is and is not there and elaborated further; and upon his question Mr. Scott stated he could do a transaction history showing the debits and credits of the reserve fund and would go beyond that so Council can understand why he has stated there was no opportunity to spend any money out of the emergency reserve. President Brand stated that would be very helpful to everyone to bring clarity and "sort of cleanse ourselves for past sins", and thanked Councilmember Xiong for bringing this forth stating it was a valid issue that needed to be discussed but at this point in time he was not sure if he was willing to spend any additional money as after looking at the information he was 99% convinced that the information was accurate.

Acting President Olivier thanked Councilmember Xiong for his questions and thought on this important issue along with staff for their responses; as stewards of taxpayer money stated he felt it was important to bring transparency where there was cloudiness and because there used to be a reserve but was none now he felt this was something the public would take an interest in; stated a balance sheet showing debits and credits was important but he would support having a firm come in to conduct a study as the public deserved to see where the money went; and stated if a study could be done for under \$5,000 that was a small price to pay for transparency and clarity and to put this matter to bed for good. Councilmember Xiong, Council Audit/Finance Committee member Borgeas and Mr. Gray responded to questions and comments of Councilmembers Baines and Borgeas and/or clarified issues relative to whether this issue was something the A/F committee could undertake, what exactly the committee would be asked to answer, belief that this issue needed to be vetted publicly and the A/F committee being a good start and the public vehicle for that, support for vetting this issue in the more intimate A/F committee setting with rationale provided by staff, belief that there is already clarity on the issue and this not being a difficult issue for the A/F committee to take on, need for a policy debate on expenditure of the funds/who to pay, support for the A/F committee taking this matter on to answer questions in a public forum, and opposition to paying a firm for a study when this can be done in-house. Discussion ensued among Council and Mr. Scott on the committee's charge, setting parameters for the committee, need for a timeframe for the committee, support for and opposition to setting parameters (**7 – 0**), going straight to a policy discussion if it is already known that there is cash value, there being no spendable cash value due to legal obligations on accounted and non-accounted for expenditures, intent to schedule an A/F committee meeting within 7 - 10 days to address this matter, and ability of committee members to ask staff for information.

On motion of Councilmember Xiong, seconded by Acting President Olivier, duly carried, **RESOLVED**, the emergency reserve fund and negative deficit financing issues referred to the Council Audit/Finance Committee for analysis and clarification, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Xiong, Brand
Noes	:	None
Absent	:	Westerlund

(9:15 A.M. “B”) APPROVE LETTER TO OUR FEDERAL DELEGATION IN SUPPORT OF COMMUNITY SERVICES BLOCK GRANT (CSBG) FUNDING – COUNCILMEMBER BAINES

Councilmember Baines stated EOC, who is under attack financially like every other agency in the country, gave a great presentation last week on CSBG, and noted some City officials and Fresno County have already publicly supported EOC by signing onto this letter and requested the City Council do the same. Councilmember Borgeas left the meeting at 3:31 p.m. during Councilmember Baines’ comments and was absent for the remainder of the meeting.

On motion of Councilmember Baines, seconded by Councilmember Xiong, duly carried, RESOLVED, the letter to the Federal delegation in support of Community Services Block Grant (CSBG) funding hereby approved, by the following vote:

Ayes	:	Baines, Olivier, Quintero, Xiong, Brand
Noes	:	None
Absent	:	Borgeas, Westerlund

The City Council recessed at 3:31 p.m. and convened in joint session with the Redevelopment Agency.

(10:30 A.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

APPROVE AGENCY MINUTES OF MARCH 10, 2011

On motion of Councilmember Quintero, seconded by President Brand, duly carried, RESOLVED, the Agency minutes of March 10, 2011, approved as submitted.

(‘A’) JOINT RESOLUTION NO. 2011-67/1789 – AUTHORIZING (1) THE CITY OF FRESNO AND THE REDEVELOPMENT AGENCY TO APPLY FOR AND RECEIVE \$100,000 FROM THE NATIONAL ENDOWMENT FOR THE ARTS ‘OUR TOWN PROGRAM’ FOR THE PROPOSED MARIPOSA PLAZA DESIGN AND FULTON MALL ARTWORK CURATORSHIP PROJECT, AND (2) THE AGENCY EXECUTIVE DIRECTOR TO OBLIGATE \$100,000 AS MATCHING FUNDS FOR THE PROPOSED PROJECT

Downtown Revitalization Manager Balch reviewed the issue and recommended approval, all as contained in the staff report as submitted, advised after the staff report was prepared the PBD partners pledged an additional \$5,000 which adds to the project budget and improves the local match to better than one-to-one, and advised the HCDC approved this last night.

On motion of Councilmember Baines, seconded by Councilmember Quintero, duly carried, RESOLVED, the above entitled Joint Council/Agency Resolution No. 2011-67/1789 hereby adopted, by the following vote:

Ayes	:	Baines, Olivier, Quintero, Xiong, Brand
Noes	:	None
Absent	:	Borgeas, Westerlund

RDA UNSCHEDULED COMMUNICATION:

Member Xiong spoke to issue of solidarity and commitment to the state’s redevelopment agencies and upon his question Executive Director Murphey stated the Agency Board had not taken action to support any of the proposals put forth by some of the Big 10 Cities and commented additionally. Brief discussion ensued on the issue and whether Mayor Swearengin was supportive of any proposal, whereupon Member Xiong requested Vice Chair Olivier bring an item back to the Agency with a recommendation on a proposal to support so that Chair Westerlund is not acting alone out there.

The joint bodies adjourned their meeting at 3:40 p.m. and the City Council reconvened in regular session.

UNSCHEDULED COMMUNICATION:

Upon call, no one wished to be heard.

CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:

(‘A’) DECIDING WHETHER TO INITIATE LITIGATION – CASE NAME: POTENTIAL LITIGATION AGAINST DARLING INTERNATIONAL, INC. – COUNCILMEMBER BAINES

The City Council convened in closed session in Room 2125 at the hour of 3:41 p.m. to consider the above matter and the meeting was adjourned thereafter.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 5:25 p.m. having arrived and hearing no objection, President Brand declared the meeting adjourned.

Approved on the ____28th____day of _____April_____, 2011.

_____/s/_____
Lee Brand, Council President

ATTEST:_____/s/_____
Yolanda Salazar, Assistant City Clerk